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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,052	11/26/2003	Yoshiaki Mimura	WEN-0027	7000
23353 7590 04/03/2008 RADER FISHMAN & GRAUER PLLC LION BUILDING 1233 20TH STREET N.W., SUITE 501 WASHINGTON, DC 20036				
EXAMINER				
THOMAS, BRANDIN				
ART UNIT		PAPER NUMBER		
2873				
MAIL DATE		DELIVERY MODE		
04/03/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/722,052

**Applicant(s)**

MIMURA, YOSHIAKI

**Examiner**

BRANDI N. THOMAS

**Art Unit**

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 4 and 6-9 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1, 4 and 6-9 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/S608)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☒ Other: Detailed Action

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/17/08 has been entered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4, and 6-9 rejected under 35 U.S.C. 103(a) as being unpatentable over Isogai et al. (5909269) in view of Yoshida (6135596).

Regarding claims 1 and 8, Isogai et al. discloses, in figures 1 and 2, an ophthalmic apparatus comprising: a chin rest (2a) on which a chin of an examinee is placed (col. 3, lines 21-22); a first moving unit (2b) which puts the chin rest (2a) into up/down movement (col. 3, lines 22-25); an examination unit (3) which has an examination optical system for examining an eye of the examinee (col. 3, lines 27-28); a second moving unit (110) which performs alignment by putting the examination unit (3) into up/down movement, right/left movement, and back/forth movement with respect to the eye (col. 3, lines 30-34); an alignment condition detection unit (4) having an image pickup unit (5) which picks up an image of the eye (col. 3, lines 60-66), which

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detects an alignment condition of the examination unit with respect to the eye (col. 3, lines 56-61); a control unit (100) which obtains an alignment deviation amount of the eye in an up/down direction from a reference position based on the image picked up by the image pickup unit (5) (col. 3, lines 28-31), and drives and controls the first moving unit (2b) so that the alignment deviation is within a possible range of the alignment by the second moving unit (110), which is narrower than a possible range of the up/down movement of the examination unit (3) when the alignment deviation is beyond the possible range of the alignment (col. 3, lines 30-48) but does not specifically disclose judges whether or not the alignment deviation amount is outside a predetermined possible range of the alignment by the second moving unit in the up/down movement, which is a range within which positioning of the eye and the examination unit can be performed without adjusting the chin rest, and is narrower than a possible range of the up/down movement of the examination unit by the second moving unit, and, if the alignment deviation amount is outside the predetermined possible range. Yoshida discloses judges whether or not the alignment deviation amount is outside a predetermined possible range of the alignment by the second moving unit in the up/down movement, which is a range within which positioning of the eye and the examination unit can be performed without adjusting the chin rest, and is narrower than a possible range of the up/down movement of the examination unit by the second moving unit, and, if the alignment deviation amount is outside the predetermined possible range (col. 6, lines 29-51). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the device of Isogai et al. with the alignment mechanism of Yoshida for the purpose of accurately alignment based upon target detection (col. 6, lines 29-51).

Regarding claims 4 and 9, Isogai et al. discloses, in figures 1 and 2, an ophthalmic apparatus, wherein the control unit (100) drives and controls the second moving unit (110) based on a detection result obtained by the alignment condition detection unit (4) (col. 3, lines 30-33).

Regarding claim 6, Isogai et al. discloses, in figures 1 and 2, an ophthalmic apparatus, further comprising an informing unit (2c) which informs the chin rest (2a) is to be moved by the first moving unit (2b) (col. 3, lines 24-26).

Regarding claim 7, Isogai et al. discloses, in figures 1 and 2, an ophthalmic apparatus, further comprising: a mode-selecting switch (90a and 90b) for selecting any one of a first examination mode in which the examinee him/herself performs examination and a second examination mode in which the examiner performs the examination (col. 6, lines 33-40); a sensor (2c) for sensing that the chin of the examinee is placed on the chin rest (2a) (col. 3, lines 24-26), wherein a detection signal from the sensor becomes a trigger for starting alignment in a case where the first examination mode is selected (col. 6, lines 24-35).

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1, 4, and 6-9 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDI N. THOMAS whose telephone number is (571)272-2341. The examiner can normally be reached on Monday - Thursday from 6-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brandi N Thomas/  
Examiner  
Art Unit 2873

BNT  
March 26, 2008

/Ricky L. Mack/  
Supervisory Patent Examiner, Art Unit 2873